

TIPP CITY COUNCIL MEETING

TIPP CITY, MIAMI COUNTY, OHIO

FEBRUARY 19, 2008

Roll Call

President Patrick A. Hale called to order the regular meeting of the Tipp City Council at 6:45 p.m. Roll call showed the following Councilmembers present: William D. Beagle, George H. Lovett, John E. Kessler, Patrick A. Hale, Mayor Tim E. Evans, and Dee Gillis.

Motion to Excuse Councilmember

President Hale moved to excuse Councilmember Vickie K. Blakey, seconded by Mayor Evans. The motion carried.

Executive Session

President Hale moved adjourn into Executive Session to discuss pending or imminent litigation and personnel matters to include the Acting City Manager, the Law Director, and Bob Surdick, seconded by Mr. Lovett. The motion carried. City Council adjourned to Executive Session. The meeting reconvened at 7:32 p.m.

In attendance: Acting City Manager Bradley C. Vath, Law Director Joseph P. Moore, Utilities Director M. J. Eichman, Police Chief Tom Davidson, Finance Director Richard Drennen, *Dayton Daily News* reporter Nancy Bowman, *Tipp Herald* reporter Mike Kelly, *Independent Voice* reporter Matt Clevenger, and Clerk of Council Misty Cheshire.

Citizens signing the register included: Bill Miller, Ron R. Re, Sherry Canfarelli, Robert M. Zimmerman, Roger Harris, Dick Chaney, Jeffrey Okrutny, Brad Holloway, Kent Whittemore, Joe Bagi, and Chuck Caudy.

Invocation and Pledge of Allegiance

Sherry Canfarelli from Ginghamburg United Methodist Church delivered the invocation. President Hale led the Pledge of Allegiance.

Approval of Agenda

Mr. Lovett moved to approve the agenda, seconded by Mr. Beagle. The motion unanimously carried.

Adoption of Minutes

Mrs. Gillis moved, seconded by Mayor Evans, to adopt the minutes of the February 4, 2008, City Council Meeting. The motion carried 5-0; Mr. Lovett abstained due to absence.

Mr. Beagle moved, seconded by President Hale, to adopt the minutes of the February 4, 2008, Post Meeting Study Session. The motion carried with a vote of 5-0; Mr. Lovett abstained due to absence.

Accept Donation

On behalf of the Tippecanoe Masonic Lodge #174, Lodge Master Robert M. Zimmerman donated a clock to the City in honor of the 200th Anniversary of the Grand Lodge of Free and Accepted Masons of Ohio. The clock has been installed in front of the Lodge and a dedication ceremony will take place on March 15th at 1:30 p.m. Council unanimously accepted the donation of the clock valued at \$15,000 and the memorandum for its perpetual use and maintenance.

**Ordinances
(Second Reading &
Public Hearing)**

The following ordinance was presented to City Council for second reading and public hearing.

Ordinance 03-08
Note Sale for CR25A

Ordinance 03-08: An ordinance providing for the issuance and sale of notes in the maximum principal amount of \$575,000, in anticipation of the issuance of bonds, for the purpose of paying the city's portion of the costs of improving County Road 25A between certain termini within the City in cooperation with the Director of Transportation of the State of Ohio by paving, draining and construction curbs, gutters and necessary approaches, together with all necessary appurtenances thereto.

Clerk of Council Summary: This ordinance will allow the City to refinance the CR25A Improvement Project notes for an additional year.

Acting City Manager Report: Mr. Vath stated that when the City constructed the CR25A project from Meyers south to West Main Street, the City financed part of the project with notes. Each year the City has refinanced the notes when they became due since the note rates have been so advantageous. Mr. Vath noted that the City's Bond Counsel prepared this legislation for City Council's consideration of the sale of \$575,000.

There being no further discussion, Mr. Beagle sponsored this ordinance and moved for its adoption, seconded by Mr. Lovett. The motion carried with a vote of 6-0. Ordinance 03-08 was declared passed and President Hale affixed his signature in witness thereto.

Ordinance 04-08
Note Sale for Kinna
Drive

Ordinance 04-08: An ordinance providing for the issuance and sale of notes in the maximum principal amount of \$1,100,000, in anticipation of the issuance of bonds, for the purpose of paying the costs of extending Kinna Drive both northerly and southerly from the current termini, by excavating, grading, draining, paving, and curbing, installing street lighting, water lines and storm and sanitary sewer lines, fire protection systems and electric lines together with all necessary appurtenances thereto.

Clerk of Council Summary: This ordinance will allow the City to finance the Kinna Drive Extension Project which is partially funded with Industrial Site Infrastructure Fund reimbursement grant monies.

Acting City Manager Report: As discussed at the January 21st Study Session, the City must issue notes to finance the Kinna Drive Extensions Project in the Northgate Commerce Center Industrial Park. Mr. Vath stated that the City would be receiving \$500,000 in reimbursement grants and the property owner would be contributing \$279,000 to this project. The City's Bond Counsel has prepared this legislation for City Council's consideration of the sale of \$1,100,000.

There being no further discussion, President Hale sponsored this ordinance and moved for its adoption, seconded by Mayor Evans. The motion carried with a vote of 6-0. Ordinance 04-08 was declared passed and President Hale affixed his signature in witness thereto.

**Resolutions
(One Reading
Required)**

The following resolution was presented to City Council for adoption.

Resolution 08-08
Miami County Transit
Fiscal Support

Resolution 08-08: A resolution approving the City's financial participation in the operation of the Miami County Transit System for FY2008 and authorizing the City Manager to execute an agreement with the Miami County Commission for public transit services at a cost not to exceed \$5,000.

Clerk of Council Summary: This resolution continues the support of Tipp City for the Miami County Transit System for 2008, with the understanding that a permanent financial solution be implemented by 2009.

Acting City Manager Report: Mr. Vath noted that the City has been requested to financially support the Miami County Transit System. In December of 2006, City Council passed resolution 45-06, which authorized a \$5,000 payment for 2007. He noted that the same payment request has been made for 2008. City Council held a study session on February 4th and discussed this request and its implications in detail. Council and staff again noted that a long term solution for the funding of the Miami County Transit System must be secured and reliance on continual contributions from the cities of Miami County was problematic. Mr. Vath noted that in 2007 a Steering Committee comprised of the three City Managers in Miami County and the Transportation Director met and promulgated four recommendations for funding, which were forwarded to Miami County for their consideration and potential action.

There being no further discussion, Mrs. Gillis sponsored this resolution and moved for its adoption, seconded by Mr. Beagle. The motion carried with a vote of 6-0. Resolution 08-08 was declared passed and President Hale affixed his signature in witness thereto.

Ordinances
(First Reading)
Snowmobiles, Off-
Highway Motorcycles,
& All-Purpose Vehicles

The following ordinance was presented to City Council for first reading but was not sponsored.

An ordinance amending code section 75.27 to modify the requirements for the operation of snowmobiles, off-highway motorcycles, and all-purpose vehicles within the City.

Clerk of Council Summary: This ordinance will prohibit the operation of these vehicles on residentially zoned lots which are smaller than five acres in area.

Acting City Manager Report: On February 4, 2008 City Council held a study session regarding the use of snowmobiles, off-highway motorcycles, and all-purpose vehicles on private residentially zoned property. As a result, staff crafted an ordinance that would prohibit the use of these vehicles on residentially zoned lots with less than 5-acres. Mr. Vath noted that enforcement of Chapter 75 would be done by the Police Department. President Hale opened the floor to public comments.

Brad Halloway, 795 Pinehurst Drive, stated that he lived across the street for a small boy with a very small quad. "The boy is having a ball and the machine makes almost no noise." He stated that if Council proceeds with this ordinance they would be appeasing a bitter neighbor. He stated that the boy is not causing any problems. Mr. Halloway stated that he owns a large quad that he used to push snow in the winter. If this ordinance is passed it would be illegal for him to use his quad to

plow his driveway. He asked City Council to take this matter under further consideration since it is not a big problem in Tipp City.

Mr. Beagle asked if Mr. Holloway had ever seen multiple ATV's in Windmere. Mr. Holloway stated that he has only seen one on the corner lot. Mr. Beagle stated that the City has a picture that shows 2 ATV's and 2 dirt bikes being rode in this subdivision.

Mr. Lovett stated that he visited the area last year. The noise was loud and area was dusty and tracks had been carved into the ground. He stated that if he was a resident in this subdivision he would have been very upset.

Mr. Holloway stated that the picture in the paper had his home in it, which made him assume that his neighbor was the person being complained about. Mr. Lovett stated that it appears that the City has more than one rider.

Mr. Lovett thanked Mr. Holloway for coming to the meeting; he stated that citizen input was very valuable. Mr. Lovett stated that City Council didn't want to keep people from plowing their driveway or using an ATV for a reasonable purpose. Using an ATV in a residential subdivision for recreational uses is inappropriate and unreasonable.

Roger Harris, 9380 Wildcat Road, stated that he lives in the Township and his children ride on his 1 acre residential lot. He stated that one complaint should not ruin activities for all of the other residents in a community. If this law is passed in the City, the Township may pass a similar law in the future if they receive complaints.

Mr. Lovett stated that the City doesn't have a law that proscribes this conduct. Mr. Harris asked if "disturbing the peace" could be used. Mr. Harris suggested people talk to their neighbors and not involve the police. Mr. Lovett stated that the City could not regulate what goes on in the Township.

Jeffrey Okutney, 575 Stonecress Drive, stated that the ordinance prohibits the use of snowmobiles. How will the City deal with a City emergency that would require a snowmobile response? Mr. Beagle stated that the City would take a "commonsense enforcement approach."

President Hale asked Chief Davidson if there was another way to enforce ATV use without passing a new law. Chief Davidson replied that the police need a legal mechanism to enforce the use of ATV's in residential areas, which does not currently exist. Without the law, the police can only ask someone to stop the activity. In regard to snowmobiles, the City has permitted the use of snowmobiles during blizzards and large snow events when the vehicle is being used for practical purposes.

Mr. Kessler suggested the ordinance not limit the use of ATV's being used for utility purposes. He noted that ATV's can be used for lawn care and snow removal and could have attachments such as wagons or snow blades. He stated that recreational use only should be prohibited.

Mr. Lovett stated that the current ordinance requires the ATV to have a bed. Mayor Evans suggested the ordinance identify recreational use clarify the language to read "an ATV with a utility attachment is permitted." Mrs. Gillis stated that she would like the ordinance to permit the use of ATV's for maintenance purposes.

Mr. Lovett stated that the City should clean up the language regarding snowmobile use. He stated that the ordinance needed a little bit more elbow grease and suggested that staff revise the ordinance.

Mr. Beagle asked if the City needed to revisit the 5 acre limitation. He asked if it should be reduced to 2 or 3 acres. President Hale agreed.

Mayor Evans stated that it was unfortunate when situations arise between neighbors that cannot be resolved without City assistance. If an issue is not addressed in the Code, City Council must determine if a new law is needed. Any citizen living in a municipality, in a residential subdivision, within city limits, has a certain degree of expectation that they can live there peacefully and enjoy their property. He stated that he witnessed the property in question and saw the dust and heard the noise. Other variables such as a child riding an off road vehicle loses control and hits a pedestrian or motorist causing damage, injury, or loss of life. Mayor Evans mentioned property rights, if someone wanted to sell their home and ATV's are being rode and damaging property they might be inclined to purchase a different home. The ATV usage can affect property values. He stated that City Council needed to do something to prohibit the recreational use of ATV's in residential neighborhoods.

Staff will redraft the ordinance for City Council to review.

Motions
Restoration Board
Appointment

Mr. Beagle moved to appoint Mark Mabelitini to the Restoration and Architectural Board of Review for a partial term expiring on December 31, 2009, seconded by Mr. Lovett. The motion unanimously carried.

Miami County Council
Representative

Mr. Lovett moved to appoint Patrick A. Hale as the representative to the Miami County Council for the term expiring on December 31, 2008, seconded by Mrs. Gillis. The motion carried with a 6-0 vote.

Charter Review
Commission

Each Councilmember nominated a person to serve on this committee:

President Hale nominated Jackie Wahl
Mayor Evans nominated Frank Wagner
Mrs. Blakey nominated Keith Kingrey
Mr. Beagle nominated Janet Seeman
Mrs. Gillis nominated Mike McDermott
Mr. Kessler nominated Scott Brownlee
Mr. Lovett nominated Larry Riesser

A roll call vote was taken for each nominee, all were unanimously appointed to the Charter Review Committee.

**Tipp-Monroe Cable
Access Commission**

President Hale moved to appoint Bradley C. Vath as an ex-officio member of the Tipp-Monroe Cable Access Commission, seconded by Mr. Lovett. The motion unanimously carried.

**Rezoning Public
Hearing**

Mr. Beagle moved to set a public hearing on March 17th to consider the rezoning of Inlots 4050 and 4051 from GB/I-1 to HS (Highway Service), seconded by Mrs. Gillis. The motion carried with a vote of 6-0.

Miscellaneous

There were no miscellaneous items on the agenda.

Citizen Comments

There were no citizen comments on items not on the agenda.

**Councilmember
Comments**

Mr. Beagle thanked the Tippecanoe Masonic Lodge for the clock donation. He thanked the citizens who volunteered to serve on the Charter Review Commission. Mr. Beagle encouraged citizens to watch the Tipp Monroe Optimist TV Auction on Tuesday, February 26th and encouraged them to place bids.

Mr. Kessler thanked the citizens who attended the meeting and thanked them for their comments.

Mrs. Gillis thanked the Tippecanoe Masonic Lodge for the clock donation and thanked the citizens who volunteered to serve on the Charter Review Commission.

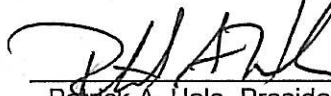
President Hale encouraged citizens to vote in the March 4th primary and support the City's income tax levy.

**Acting City Manager
Comments**

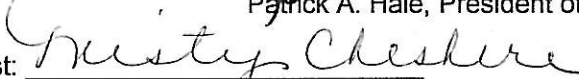
Mr. Vath stated that the American In Bloom Committee has begun working on the 2008 program. Tipp Pride Day will be extended to a week-long event beginning April 13th thru 19th. Interested volunteers should contact Tipp Monroe Community Services.

Adjournment

There being no further business, it was moved by Mr. Lovett, seconded by Mayor Evans, that the meeting be adjourned. The motion unanimously carried. President Hale declared the meeting adjourned at 8:14 p.m.



Patrick A. Hale, President of Council

Attest: 

Misty Cheshire, Clerk of Council